

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419

Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:
All Actions

**PLAINTIFFS' STEERING COMMITTEE'S
NOTICE IDENTIFYING FULLY BRIEFED MOTIONS**

The Plaintiffs' Steering Committee ("PSC") hereby provides notice identifying those motions that will be fully briefed before June 18, 2014.

I. BACKGROUND

During the May 13, 2014 status conference, the PSC suggested that the Court consider setting a date for argument on motions to dismiss and other potentially dispositive motions that will be fully briefed by the June 19, 2014 status conference. The Court indicated that it would set a date for argument on fully briefed dispositive motions for June 18, 2014, the day before the next status conference.

Counsel for defendant BKC pointed out that BKC's motion to dismiss would also be ripe for argument by June 19, 2014, and asked that the Court also set BKC's motion for argument on the same day.

The Court asked the PSC whether any other motions would be ripe for argument before June 18, 2014. The PSC offered to file a pleading addressing the status of the remaining dispositive motions.

The Court has issued an order setting several motions for argument on June 18, 2014 at 9:30 am [ECF No. 1122] including the motion by BKC. Since that time, BKC and the PSC have agreed to seek to continue the June 18, 2014 hearing of BKC's Motion to Dismiss given that lack of availability of BKC's counsel on June 18, 2014 and the efficiency in hearing both Ohio-related defendant motions together.

II. MOTIONS RIPE FOR ARGUMENT

The following motions are fully briefed, have already been set for argument on June 18, 2014:

1. Tennessee Defendants Motion to Dismiss for Failure to Comply with Tenn. Code Ann. 29-26-121 [ECF No. 770, Agenda Item # 21(d)]
2. St. Thomas Entities' Motion to Dismiss (re Global Claims) [ECF No. 893, Agenda Item #21(e)]
3. St. Thomas Entities and Ascension Parties' Motion to Dismiss for Failure to Comply with Tenn. Health Care Liability Act [ECF No. 779, Agenda Item # 21(d)]
4. Tennessee Clinic Defendants' Motion to Dismiss (re Global Claims) [ECF No. 771, Agenda Item #21(e)]
5. Ascension Parties' Motion to Dismiss (re Global Claims) [ECF No. 895, Agenda Item #21(e)]

The following motion is fully briefed, was discussed during the status conference as one of the motions that would be set for argument on June 18, but has not yet been set for argument on June 18:

6. Premier Orthopedic and Sports Medicine Associates of Southern New Jersey Motion to Dismiss (re Global Claims) [ECF No. 831, Agenda Item #13]

The PSC and Premier jointly ask that the Court set the Premier Orthopedic motion for argument on June 18.

The following motion is fully ripe and has been set for argument on June 18:

7. BKC's Motion to Dismiss [ECF No. 896, Agenda Item #21(g)]

The PSC and BKC jointly ask the Court to postpone argument on this motion until such time as other Ohio-related motions to dismiss are fully briefed.¹ The parties believe that arguing the Ohio motions at the same will be more efficient.

For completeness, below the PSC identifies those dispositive motions which will *not* be fully briefed by June 18:

1. John Culclasure, Howell Allen Clinic, A Professional Corporation, Kenneth R. Lister, Saint Thomas Outpatient Neurosurgical Center, LLC, Debra Schamberg, Specialty Surgery Center, PLLC's Motion for Summary Judgment [ECF No. 774];
2. Cincinnati Pain Management Consultants, Inc., Cincinnati Pain Management Consultants Ltd. and Gururau Sudarshan, M.D.'s Motion to Dismiss [ECF No. 1013];
3. Advanced Pain & Anesthesia Consultants, PC d/b/a APAC Centers for Pain Management and Randolph Y. Chang, M.D.'s Motion to Dismiss [ECF No. 1108]; and
4. Dallas Back Pain Management/Momentum Pain Management and Abbeselom Ghermany's Motion to Dismiss [ECF No. 1133].

Dated: May 23, 2014

Respectfully submitted,

/s/ Kristen A. Johnson

Thomas M. Sobol

Kristen A. Johnson

HAGENS BERMAN SOBOL SHAPIRO LLP

55 Cambridge Parkway, Suite 301

Cambridge, MA 02142

Telephone: (617) 482-3700

Facsimile: (617) 482-3003

tom@hbsslaw.com

kristenjp@hbsslaw.com

Plaintiffs' Lead Counsel

¹ Cincinnati Pain Management's Motion to Dismiss [ECF No. 1013]. The PSC and Counsel for BKC and Cincinnati Pain Management are discussing potential changes to the briefing schedule.

Elizabeth J. Cabraser
Mark P. Chalos
Annika K. Martin
LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP
150 Fourth Avenue North, Suite 1650
Nashville, TN 37219-2417
Telephone: 615.313.9000
Facsimile: 615.313.9965
ecabraser@lchb.com
mchalos@lchb.com
akmartin@lchb.com

Federal/State Liaison

Marc E. Lipton
LIPTON LAW
18930 W. 10 Mile Road
Southfield, MI 48075
Telephone: (248) 557-1688
Facsimile: (248) 557-6344
marc@liptonlawcentercom

Kim Dougherty
JANET, JENNER & SUGGS, LLC
31 St. James Avenue, Suite 365
Boston, MA 02116
Telephone: (617) 933-1265
kdougherty@myadvocates.com

Patrick T. Fennell
CRANDALL & KATT
366 Elm Avenue, S.W.
Roanoke, VA 24016
Telephone: (540) 342-2000
pfennel@crandalllaw.com

Mark Zamora
ZAMORA FIRM
6 Concourse Way, 22nd Floor
Atlanta, GA 30328
Telephone: (404) 451-7781
Facsimile: (404) 506-9223
marc@markzamora.com

J. Gerard Stranch, IV
Benjamin A. Gastel
BRANSETTER, STRANCH & JENNINGS
PLLC
227 Second Avenue North
Nashville, TN 37201
Telephone: (615) 254-8801
Facsimile: (615) 255-5419
gerards@branstetterlaw.com
beng@branstetterlaw.com

Plaintiffs' Steering Committee

CERTIFICATE OF SERVICE

I, Kristen A. Johnson, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: May 23, 2014

/s/ Kristen A. Johnson
Kristen A. Johnson, BBO # 667261